

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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EMMANUEL ADEYINKA,

Plaintiff,

v.

CITY OF PHILADELPHIA, et al.,

Defendants.

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Civil Action  
No. 18-3253

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2019, it is hereby **ORDERED** that  
Plaintiff's Motion for Set Aside the Judgment is **DENIED**.

BY THE COURT:

\_\_\_\_\_  
**TUCKER, J.**

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**BRIEF IN OPPOSITION TO PLAINTIFF’S  
MOTION TO SET ASIDE THE JUDGMENT**

This Court should deny Plaintiff’s motion to set aside the judgment. Plaintiff faces a “heavy burden” to set aside a judgment under Federal Rule of Civil Procedure 60(b), because the Third Circuit “view[s] Rule 60(b) motions as extraordinary relief which should be granted only where extraordinary justifying circumstances are present.” *Bohus v. Beloff*, 950 F.2d 919, 930 (3d Cir. 1991) (citations and quotations omitted). In his motion, Plaintiff fails to set forth any evidence or allegation that would merit setting aside the Court’s judgment. In fact, Plaintiff does not even articulate why he believes the Court was wrong to dismiss this matter based on the statute of limitations. The Court correctly concluded that the statute of limitations bars this suit, and it should deny Plaintiff’s motion.<sup>1</sup>

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<sup>1</sup> The City of Philadelphia was recently served with Plaintiff’s complaint, but did not accept service for “Mr. Summer,” because it cannot identify who this individual is or whether he exists. However, if “Mr. Summer” did in fact work for the Philadelphia Prison System, the claims against him – or any other defendant – would fail based on the statute of limitations, so the Court correctly dismissed this matter as to all Defendants.

Date: January 24, 2019

Respectfully submitted,

/s/ Michael R. Miller  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the date below, the foregoing brief was filed on ECF and is available for viewing and downloading. I also certify that a copy of the brief has been served upon the Plaintiff by first class mail, postage prepaid, as follows:

Emmanuel Adeyinka  
10811 Richmond Ave. #18  
Houston, TX 77042

Date: January 24, 2019

Respectfully submitted,

/s/ Michael R. Miller

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